In the High Court of Judicature at Madras

Dated:29.09.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice S. TAMILVANAN

Habeas Corpus Petition No.803 of 2006

S. Kala .. Petitioner

vs.

1. The Secretary to Government
   Food and Consumer Protection Department
   Government of India
   New Delhi.

2. The Secretary to Government
   Food and Consumer Protection
   Department,
   Government of Tamil Nadu
   Fort St. George
   Chennai 600 009.

3. The District Collector
   and District Magistrate
   Perambalur District,
   Perambalur.

4. The Inspector of Police
   Civil Supplies CID
   Trichy. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus calling for records relating to the third respondent, pertaining to the detention order made in P.B.M.M.S.E.C.No.01/2006 dated 29.07.2006 in detaining the detenu under Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act No.7 of 1980 (Central Act No.7 of 1980) as "Black Marketer" and quash the same and direct the respondents to produce the said detenu namely, Senthil @ Senthil Kumar, Son of Kannusamy aged about 31 years now detained at Central Prison, Trichy before this Hon'ble Court and set him at liberty as stated therein.

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For petitioner : Mr. D. Veerasekaran

For respondents 2 to 4 : Mr. M. Babu Muthu Meeran
Addl. Public Prosecutor

Mr. P. Kumaresan,ACGSC for R.1

ORDER

(Order of the Court was made by P. SATHASIVAM,J.)

The petitioner Kala, wife of the detenu by name Senthil @ Senthilkumar, who was detained as a "Black Marketeer" as contemplated under Section 3(2)(a) read with 3(1) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980, by the impugned detention order dated 29.07.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as the respondents.

3. At the foremost learned counsel appearing for the petitioner by drawing our attention to the fact that the detention order was passed on 29.07.2006 on the basis of various materials including the remand extension order dated 28.07.2006, extending the remand of the detenu till 11.08.2006, however, the Tamil version of the remand extension order dated 28.07.2006 has not been furnished to the detenu, that too in spite of a pre-detention representation of the petitioner dated 20.07.2006, which vitiates the impugned detention order.

4. In the light of the above contention, we verified the order of the learned Judicial Magistrate, Perambalur dated 28.07.2006, which is available at page 65 of the paper book supplied to the detenu. On the basis of the requisition made by the sponsoring authority, the learned Magistrate, by order dated 28.07.2006, extended the remand till 11.08.2006. It is the grievance of the petitioner that the detenu knows only Tamil language and he cannot understand any statement made in other than Tamil language. This is clear from the representation of the petitioner dated 11.08.2006, who is none else than the wife of the detenu. In this regard learned counsel for the petitioner has brought to our notice the decision of the Supreme Court in Pownammal vs. State of Tamil Nadu reported in AIR 1999 SC 618. Almost in similar circumstance, the Hon'ble Supreme Court, after finding that the Tamil version of the order or remand was not supplied to the detenu, quashed the detention order. The following conclusion is relevant,

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" 15. Adverting to the facts of this case, the appellant has made a representation for supply of Tamil version of the copy of order of remand and specifically stated that the detenue could understand English language. Admittedly, Tamil version of order of remand was not furnished to her. A perusal of the grounds shows that the order of remand was relied upon by the second respondent to reach subjective satisfaction, so the detenue need not show that any prejudice was caused to her due to non supply of the Tamil version of order of remand. Therefore, the High Court is not correct in holding that non-furnishing of the copy of order of remand would not in any way prejudice the detenue.

16. For the above reasons, in our view non-supply of Tamil version of English document, on the facts and in the circumstances, renders her continued detention illegal. We, therefore, direct that the detenue be set free forthwith unless she is required to be detained in any other case. This appeal is accordingly allowed."

5. On going through the factual details in our case and of the admitted factual position that the Tamil version of the remand extension order was not furnished to the detenu, we are of the view that the dictum laid down in the above cited case is directly applicable to the case on hand. Accordingly, we hold that non-supply of Tamil version of English document, viz., remand extension order dated 28.07.2006 on the facts and in the circumstances, renders his continued detention illegal. On this ground, the order of detention impugned in the petition is set aside and the detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with any other case.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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4. The Inspector of Police
   Civil Supplies CID
   Trichy.

5.The Superintendent,
Central Prison, Trichy.

6.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.D.Veerasekaran, Advocate Sr 46240

SR (Co)
km/12.10.

H.C.P.No.803 of 2006

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